

**FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579**

**IN THE MATTER OF THE CLAIM OF**

UNITED STATES TRUST COMPANY OF  
NEW YORK, AS TRUSTEE

**Claim No. CU-2122**

**Decision No. CU - 1924**

**Under the International Claims Settlement  
Act of 1949, as amended**

Counsel for claimant:

Carter, Ledyard & Milburn

**PROPOSED DECISION**

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by UNITED STATES TRUST COMPANY OF NEW YORK, AS TRUSTEE, for 27,946,419.00 pesos, based upon the failure of the Consolidated Railroads of Cuba to meet its obligations with respect to certain bonds issued by that Company.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government

of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under Section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The claimant has stated that the claim was made on behalf of United States nationals holding Consolidated Railroads of Cuba 3% Cumulative Income Debentures due October 1, 2001 by United States Trust Company of New York as trustee under Consolidated Railroads of Cuba Indenture dated as of February 1, 1953.

The claimant has no ultimate beneficial interest as a holder of any of the bonds but has presented this claim to fulfill its duty to protect the interests of holders of the bonds, as the holder of legal title to the claims represented thereby and as trustee.

Although the claimant herein is the agency through which bondholders might, under other circumstances, have had their rights protected under the bonds issued by the Consolidated Railroads of Cuba, it does not itself claim herein to have suffered a loss within the meaning of Title V of the Act which the Commission might certify to the claimant and to the Secretary of State. Accordingly, the Commission's disposition of the instant claim can only be a denial thereof.

However, claimant's timely filing of a claim will protect the rights of holders of the bonds here involved, to the extent that any such holders who have filed or who may file claims based upon such bonds will have their claims considered by the Commission as timely filed, provided filing is made not later than March 1, 1970, to permit orderly disposition thereof before the termination of the claims program on May 1, 1970; and certifications will be made thereon as appropriate. (See Claim of Morgan Guaranty Trust Company of New York, as Trustee, Claim No. CU-1594.)

Accordingly, this claim is denied. The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

MAY 29 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

Notice: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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